



U.S. Department of Justice

Immigration and Naturalization Service

OFFICE OF ADMINISTRATIVE APPEALS  
425 Eye Street N.W.  
ULLB, 3rd Floor  
Washington, D.C. 20536

FILE: [REDACTED] Office: Kansas City

Date: NOV 27 2000

IN RE: Obligor: [REDACTED]  
Bonded Alien: [REDACTED]

IMMIGRATION BOND: Bond Conditioned for Voluntary Departure under § 240B of the  
Immigration and Nationality Act, 8 U.S.C. 1229c

IN BEHALF OF OBLIGOR:

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,  
EXAMINATIONS

*[Signature]*  
Mary C. Mulrean, Acting Director  
Administrative Appeals Office

Identifying Data Covered by  
prevent disclosure of information  
pertaining to national defense

**DISCUSSION:** The delivery bond in this matter was declared breached by the District Director, Kansas City, Missouri, and is now before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The record indicates that on May 25, 2000 the obligor posted a \$500 bond conditioned for the voluntary departure of the above referenced alien. An Order of the Immigration Judge dated May 25, 2000 was issued granting the alien voluntary departure in lieu of removal on or before July 24, 2000. On September 6, 2000, the district director notified the obligor that the bond had been breached after failing to receive any proof of the alien's departure.

On appeal, counsel states that the alien attempted to have her departure verified by a Service officer but the officer returned the form to her with instructions to mail it from her home in Acapulco, GTO, Mexico. Counsel failed to identify the specific Service office nor the identity of the officer nor his title. Counsel submitted a form from a messenger and package company in Mexico indicating that a sender was Tomasita Gallardo Olea. Counsel alleges that the alien departed from the United States on June 29, 2000.

8 C.F.R. 240.26(c)(iii)(3) provides that, in order for the voluntary departure bond to be cancelled, the alien must provide proof of departure to the district director.

8 C.F.R. 240.26(b)(ii)(3) provides that a voluntary departure bond is violated if the obligor/alien fails to provide proof that the bonded alien has departed the United States within the time specified.

The record reflects that the alien was granted voluntary departure from the United States on or before July 24, 2000. No satisfactory evidence has been introduced into the record to establish he made a timely departure. The record contains an assertion that the alien departed prior to the specified date. The service of a notice to surrender or the presence of a certified mail receipt is not required in a voluntary departure bond proceeding.

The Service has held that an alien who departs from the United States prior to the date demanded for surrender may be in substantial compliance with the terms of his delivery bond. Matter of Don Donaldson's Key Bail Service, 13 I&N Dec. 563 (Acting Reg. Comm. 1969). However, the burden is upon the alien or her surety to prove by probative evidence that the alien did leave the country prior to her surrender date. Matter of Peerless Insurance Company, 15 I&N Dec. 133 (Reg. Comm. 1974).

A physical verification of departure by an immigration officer at the port of departure, or a verification of the alien's presence in the foreign destination by a United States consular officer or immigration officer abroad, is required to verify departure. Whether together or separate, Forms I-94 and departure manifests submitted by a transportation line are insufficient verification of departure for bond cancellation purposes.

The Service will accept a document signed by an embassy official, consular officer, or Service officer abroad, and bearing an appropriate seal or other indicia of reliability as proof that a voluntary departure or self-removal has occurred. The district director retains the discretion to accept other documents of voluntary departure. The original of such document[s] may be delivered [either] by the surety or through diplomatic channels. Copies of such documents will be accepted only if received through diplomatic channels.

Counsel's assertion that the alien departed from the United States on June 29, 2000 is unsupported by any evidentiary documentation. Nor does the record contain a Notification of Departure-Bond Case (Form I-392) properly executed by a United States Embassy official, consular officer or immigration officer abroad and received through official channels indicating the bonded alien's departure from the United States prior to his surrender date.

Voluntary departure bonds are exacted to insure that aliens will depart when required in lieu of removal. Such bonds are necessary in order for the Service to function in an orderly manner. After a careful review of the record, it is concluded that the alien failed to depart by the stipulated time, the conditions of the bond have been substantially violated, and the collateral has been forfeited. The decision of the district director will not be disturbed.

**ORDER:** The appeal is dismissed.